

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Will Allen, Redevelopment Administrator/ (954) 797-2093

PREPARED BY: Will Allen

SUBJECT: Resolution

AFFECTED DISTRICT: District 1 District 2

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RATIFYING BANK UNITED, F.S.B., AS A LENDER AND PARTICIPANT IN THE DAVIE COMMUNITY REDEVELOPMENT AGENCY'S COMMERCIAL LOAN SUBSIDY PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF The Davie Community Redevelopment Agency (CRA) has been implementing the Commercial Loan Subsidy Program to assist existing and new businesses in the redevelopment area. The program requires the participation of lending institutions to provide financing of loans to businesses desiring to improve properties in the redevelopment area. These improvements can range from new buildings, to building additions or interior and/or exterior improvements. Bank United, F.S.B., has requested to be a participant and has executed an agreement to participate in the program.

This program has proven to be an effective tool in assisting businesses to make improvements to their property. There have been eleven loans approved through the years which have resulted in over four million dollars worth of improvements. The CRA has paid a little over one hundred and fifty thousand dollars in interest buy downs on these loans. A chart showing the previously approved loans is attached.

PREVIOUS ACTIONS: Since the inception of the program, several lenders have participated in this program. Some have revised their names and others have been added to the list.

CONCURRENCES: The CRA Board approved this item at their June 29, 2005 meeting.

FISCAL IMPACT:

Has request been budgeted? N/A

RECOMMENDATION(S): Motion to approve Resolution.

Attachment(s): Resolution
Commercial Loan Subsidy Agreement With Bank United F.S.B.
CRA Loan Subsidy Chart

RESOLUTION NO. 2005-

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RATIFYING BANK UNITED, F.S.B., AS A LENDER AND PARTICIPANT IN THE DAVIE COMMUNITY REDEVELOPMENT AGENCY'S COMMERCIAL LOAN SUBSIDY PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Davie Community Redevelopment Agency (CRA) has been implementing the Commercial Loan Subsidy Program to assist existing and new businesses in the redevelopment area; and

WHEREAS, the program requires the participation of commercial lending institutions to provide financing of loans desiring to improve properties in the redevelopment area; and

WHEREAS, Bank United, F.S.B., requests to be a participant in the program and has executed an agreement to participate in the program; and

WHEREAS, the Community Redevelopment Agency approved the agreement with Bank United, F.S.B., to be a participant in the program on June 29, 2005.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The Town Council of the Town of Davie ratifies Bank United, F.S.B., as a participant in the CRA's Commercial Loan Subsidy Program.

SECTION 2. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2005.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2005.

COMMERCIAL LOAN SUBSIDY AGREEMENT

THIS AGREEMENT, by and between the COMMUNITY REDEVELOPMENT AGENCY OF THE TOWN OF DAVIE, hereinafter referred to as the "CRA", and BankUnited, F.S.B., hereinafter referred to as the "Lender", is hereby made and entered into this 14th day of June, 2005.

WITNESSETH:

WHEREAS, the parties are hereby entering into this Commercial Loan Subsidy Agreement (the "Agreement"), for the providing of a subsidized loan program (the "Program"); and

WHEREAS, the parties are desirous to state their respective responsibilities for administering said Program and to provide other requirements with respect thereto.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties agree as follows:

1. The CRA has committed certain funding in its budget for the Program and said funds will be available to the various participating lenders on a first come first serve basis. The Program applicant (loan borrower) shall select the participating lender from which to request a loan commitment. The funds will be committed to an individual lender in accordance with the Program in the order of receipt by the CRA of an acceptable written firm loan commitment from one of the participating lenders to individually approved borrowers. For purposes of determining the order of receipt, all loan commitments will be deemed received upon the physical receipt by the CRA at the office of its Redevelopment Administrator.

2. The CRA will accept initial loan applications for the Program from prospective borrowers and will approve or disapprove them, in the order of receipt, on the basis of the proposed loan being for a qualified purpose as hereinafter defined in Exhibit

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"A", to a commercial property whose business location lies within the designated area of the CRA District ("Exterior Improvements Loan"), or, to a business owner whose business location lies within the designated area of the CRA District ("Business Loan"), or to a property owner/business owner desiring to expand or newly construct a commercial building within the designated area of the CRA District. The boundaries of the designated area of the CRA District are shown in Exhibit "B". If the applicant does not own the property, the owner of the property must approve of the improvements to be made to the building by co-signing the application. Upon such approval, the loan application will be forwarded by the CRA to the respective participating lender selected by the applicant and upon receipt of the loan application approved by the CRA the respective participating lender shall perform its underwriting evaluation for approval or disapproval. In the event the Lender is provided with a CRA approved application and the Lender approves such loan and issues a firm commitment therefore, the Lender shall forthwith deliver to CRA, in care of its Redevelopment Administrator, such loan commitment.

3. Upon receipt of an approved firm loan commitment from the Lender, which contains terms acceptable to the CRA in its sole and absolute discretion and in compliance with the requirements herein, subject to the availability of funds for the Program, the CRA shall notify to the Lender of the amount it shall provide as interest subsidy for the loan period, less the discounted present value based on the one year U.S. Treasury note rate; provided, however, the interest subsidy shall not exceed five percent (5%) per annum. The CRA shall pay the interest subsidy to the Bank upon the issuance of a certificate of occupancy for the improvements, or, if no certificate of occupancy is required for the work or improvements, upon final inspection and completion as determined by the Town of Davie that all work or improvements for which the CRA has agreed to provide on interest subsidy have been completed. In the event the subject loan is prepaid in full by the borrower, the Lender shall pay to the CRA within thirty (30) days after such prepayment an amount

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equal to the unearned interest as determined in accordance with the type of repayment schedule utilized for the loan computed at the note interest rate reflecting the interest due for the unexpired term of the loan. The Lender expressly acknowledges and agrees that the CRA shall have no liability for the payment or obligation for any sums of whatever nature other than the initial interest paid to the Lender as hereinabove provided. The parties acknowledge that the CRA will not be entitled to any refunds of interest on loans which are not prepaid in full and or are in default. At closing, the Lender shall require the borrower to execute an affidavit in form approved by the CRA as described in Exhibit "C", that the sole use of the proceeds of the loan will be only for the purposes set forth in the approved loan application.

The Program funds will be allowable for permanent and variable rate financing. The Program funds will be allowable for straight amortization schedule and mortgage style schedule repayment. Loans must be of declining principal.

4. A. There shall be no reimbursements allowed as a part of the subject loan for work completed prior to the closing of the loan.

B. All disbursements for loans must be accompanied by invoices and paid receipts.

C. The Lender shall either provide construction inspection or accept the inspection by a licensed architect, at Lender's option.

D. The construction shall be performed by a licensed contractor.

5. The following alternative method of administration of the commercial loan subsidy program shall be available to the Lender either for new loans or existing loans assuming the following conditions:

A. This alternative method of administration shall only be applicable to:
(a) new construction projects, including building expansion, improvements or renovations to

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existing buildings and structures; and in the event the total loan amount including subsidized and other financing exceeds \$50,000; and (b) exterior improvement loans;

B. The determination of the amount of interest subsidy assistance shall be made in the same manner as provided in Section 3 of this Agreement;

C. In the event this alternative method of administration is applied to an existing approved loan, there shall be no increase in the amount of interest subsidy approved by the CRA;

D. The procedures of Section 3 shall be applied to this alternative method except as amended in this Section 5;

E. The amount representing the interest subsidy from the CRA may be applied by the Lender to credit repayment by the borrower in total at any time;

F. The proceeds obtained from the CRA by the Lender shall be placed in an interest bearing account in the event the proceeds are to be paid out over a term of one year or more;

G. Only upon the issuance of a final certificate of occupancy or upon final inspection and completion as determined by the Town of Davie for all improvements, as appropriate, such amounts shall be applied by the Lender to: (a) reduce principal and/or interest payments due from the Borrower until proceeds paid by the CRA are exhausted; or (b) provide a discounted interest rate to the Borrower; and

H. If the project is sold or the property is otherwise disposed of by the Borrower, and there are undisbursed funds held by the Lender, the funds shall be returned to the CRA.

6. The CRA and Lender hereby agree that loans which will qualify for the Program will be made upon the following terms and conditions:

A. Business Loans:

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(i) Loan amount: ten thousand dollars (\$10,000.00) minimum; and maximum amount to be determined by the CRA Board on a case by case basis. The Business Loan is required to be combined with exterior improvements if the property qualifying for such assistance does not meet applicable Town codes for exterior appearance;

(ii) Purpose: construction of interior improvements to premises within the community redevelopment area or fixed capital expenditures necessary for business operations;

(iii) Borrower Qualification: subject to Lender's underwriting standards;

(iv) Term: maximum term for loan shall be sixty (60) months;

(v) Interest rates: secured and unsecured loan rate shall be determined as of the date of closing;

(vi) Fees: normal closing costs including but not limited to recording fees, title insurance, owners and encumbrance search, documentary stamp tax, intangible tax, etc., may be financed as part of the Loan by the Lender. The Lender's loan application fee(s) and origination points will not be financed as part of the Program;

(vii) Collateral: The loans shall be collateralized as the Lender deems necessary. Personal guarantees will be required in all instances unless waived by the Lender.

B. Exterior Improvement Loans:

(i) Loan Amount: five thousand dollars (\$5,000.00); and a maximum amount to be determined by the CRA Board on a case by case basis.

(ii) Purpose: qualifying improvements of the exterior of non-residential commercial properties as described in Exhibit "A";

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(iii) Loan to value ratio: the maximum loan to value ratio after the improvements and including all mortgages shall not exceed eighty five percent (85%) of the appraised value or one hundred twenty-five percent (125%) of the tax assessed value;

(iv) Term: maximum term for loan shall be sixty (60) months;

(v) Interest rates: secured and unsecured loan shall be determined as of the date of closing;

(vi) Closing costs: normal closing costs including but not limited to recording fees, title insurance, owners and encumbrance search, documentary stamp tax, and intangible tax, etc., may be financed as part of the loan by the Lender. The Lender's loan application fee(s) and origination points will not be financed as part of the Program;

(vii) Collateral: The loans shall be collateralized as the Lender deems necessary. Personal guarantees will be required in all instances unless waived by the Lender.

C. Building Expansion/New Construction Loans:

(i) Loan Amount: twenty thousand dollars (\$20,000.00) minimum; and a maximum amount to be determined by the CRA Board on a case by case basis;

(ii) Purpose: qualifying expansion and construction of commercial properties as described in Exhibit "A";

(iii) Loan to value ratio: the maximum loan to value ratio after the improvements and including all mortgages shall not exceed eighty five percent (85%) of the appraised value or one hundred twenty-five percent (125%) of the tax assessed value;

(iv) Term: maximum term of loan subsidy shall be sixty (60) months, however, the loan period may be longer than sixty (60) months;

(v) Interest rates: both secured and unsecured loan rates shall be determined as of the date of closing;

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(vi) Closing costs: normal closing costs including but not limited to recording fees, title insurance, owners and encumbrance search, documentary stamp tax, and intangible tax, etc., may be financed as part of the loan by the Lender. The Lender's loan application fee(s) and origination points will not be financed as part of the Program;

(vii) Collateral: The loans shall be collateralized as the Lender deems necessary. Personal guarantees will be required in all instances unless waived by the Lender.

The three loan types may be combined. The maximum loan amount for the Program will be determined by the CRA Board on a case by case basis.

7. It is mutually understood that the agreements and covenants contained herein are severable and in the event any of them shall be held to be invalid, this Agreement shall be interpreted as if such invalid agreements or covenants were not contained herein.

8. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

9. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees, expenses, costs of appeal and necessary disbursements in addition to any other relief to which it may be entitled.

10. The rights and benefits of this Agreement shall not be transferable or assignable by any party without the written consent of the other.

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11. This Agreement may only be amended or modified by an instrument in writing signed by both parties.

WITNESSES:

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COMMUNITY REDEVELOPMENT AGENCY

By: _____

Lender

Simone Nicol

By: Eric M. Johnson
Vice President, Community Development Manager
CRA Officer
Bank United, F.S.B.

FTL1 #143756 v2

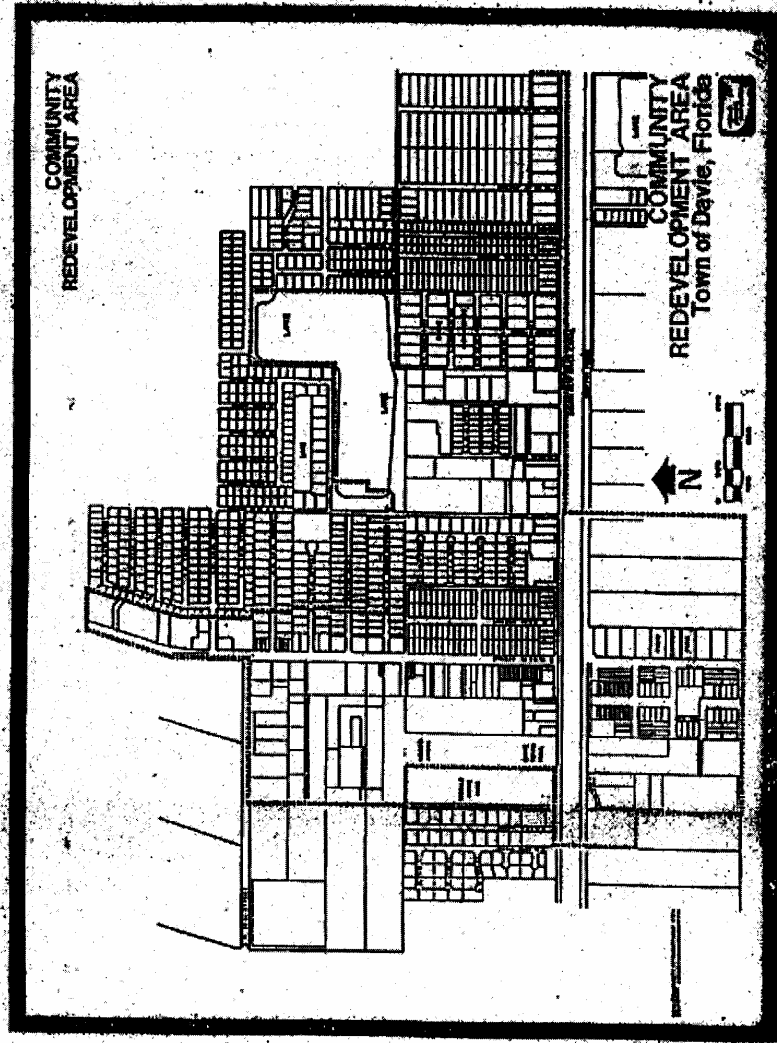
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EXHIBIT "A"

1. The following are authorized under the Business Loan:
 - a. Interior Improvements or fixed capital expenditures necessary for business operations.
2. The following external improvements to property are authorized under the Exterior Improvements Loan:
 - a. Re-roofing;
 - b. Painting;
 - c. Awnings;
 - d. Shutters;
 - e. Siding;
 - f. Replacement of Rotten Wood;
 - g. Doors;
 - h. Windows;
 - i. Driveways/Paving;
 - j. Landscaping (sod, trees, bushes, plants and irrigation systems);
 - k. Exterior modifications, such as rebuilding a porch;
 - l. Signage;
 - m. Fencing;
 - n. Security Systems;
 - o. Exterior Lighting;
 - p. Irrigation;
 - q. or any other improvements consistent with the Downtown Davie (Western Theme) Development Manual's design criteria where the business is located within the Downtown Davie (Western Theme) designated area.
3. The following are authorized under the Building Expansion/New Construction Loan:
 - a. Construction costs, excluding property acquisition costs and soft costs;
 - b. Loan proceeds may be used to pay for applicable building permits.
4. All materials and work must be in compliance with applicable Town of Davie Building Codes.

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EXHIBIT "B"



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CRA LOAN SUBSIDY CHART					
Subsidy Granted To Name and Address	Amount of Loan Approved	Amount of Interest Paid	Amount of Actual Construction	Date Loan Subsidy Paid	
Source Mart, Inc./George Duke 4341 SW 62nd Avenue	\$45,000.00	\$3,388.28 (Only for 3 years)	\$150,000.00	09/15/95	
Il Bacio Restaurant/Miles Ahead, Inc. 4620 Davie Road	\$30,228.85	\$3,520.64	\$30,228.85	12/29/1995	
Webber & Hinden Holding Corp. 4430 SW 64th Avenue	\$30,000.00	\$3,519.58	\$30,000.00	05/08/96	
Lil Rascals/Dairy Queen/Doug Mill 6550 SW 36th Street	\$200,000.00	\$25,387.80	\$1,300,000.00	08/08/97	
54, Inc./Lehasheml (Davie Prof. Co.) 4485 SW 67th Terrace	\$100,000.00	\$11,683.90	\$685,000.00	02/13/98	
Norton Carbide Tool, Inc. Guardianship Office N. Crompton 4153 SW 47th Avenue	\$100,000.00	\$10,749.47	\$270,000.00	06/11/99	
Jennmar Dimensional Concepts, Inc. Bel-Tec Electrical 4700 Davie Road	\$100,000.00	\$10,749.47	\$350,000.00	08/31/01	
Miglo, Inc. Davie Battery & Alternator	\$100,000.00	\$14,416.98	\$352,500.00	11/07/01	
Megan South - George Ruilo 6521 Orange Drive	\$100,000.00	\$16,659.06	\$288,133.00	06/05/02	
Davie Professional Building 4179 Davie Road	\$200,000.00	\$39,598.82	\$825,000.00	6/2003	
Davie Professional Building 4175 Davie Road	\$75,000.00	\$13,200.00	\$75,000.00	4/2004	
TOTAL	\$1,005,228.85	\$151,075.00	\$4,365,361.85		Revised 04/28/04

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